

Docket No.: 199202US2X PCT

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

OBLON  
SPIVAK  
McCLELLAND  
MAIER  
&  
NEUSTADT  
P.C.  
  
ATTORNEYS AT LAW

RE: Application Serial No.: 09/700,729

Applicants: Hideki KINUGAWA, et al.  
Filing Date: November 30, 2000  
For: SHOVEL  
Group Art Unit: 3671  
Examiner: PEZZUTO, R.

SIR:

Attached hereto for filing are the following papers:

**PETITION UNDER 37 C.F.R. 1.181(a)(3)**

Our check in the amount of \_\_\_\_\_ is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

**RECEIVED**  
OCT 01 2002

**GROUP 3600**

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

\_\_\_\_\_  
Norman F. Oblon  
Registration No. 24,618

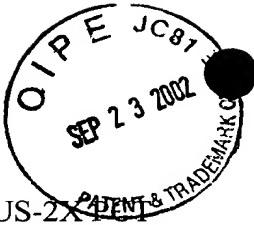


22850

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Robert T. Pous  
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199202US-2X



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :

HIDEKI KINUGAWA ET AL

: EXAMINER: PEZZUTO, R. E.

SERIAL NO: 09/700,729

:

FILED: NOVEMBER 30, 2000

: GROUP ART UNIT: 3671

FOR: SHOVEL

:

PETITION UNDER 37 C.F.R. §1.181(a)(3)

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OCT 01 2002

**GROUP 3600**

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

SIR:

Applicants herein petition the examiner to exercise his supervisory authority to require the examiner to consider and make of record the prior art cited in the International Search Report and the prior art cited in the Information Disclosure Statement filed on July 26, 2002.

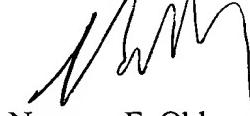
The present application was filed under the PCT. The notification of acceptance of application under 35 U.S.C. §371 (PCT Form 903) indicated that a copy of the International Search Report and copies of the references cited therein had been received by the U.S. PTO in its capacity as a designated office under the PCT (see attached PCT Form 903). In this circumstance, the examiner is required to consider the documents cited in the International Search Report (MPEP 609). There is no indication of record that the prior art cited in the International Search Report has in fact been considered by the examiner. Applicants therefore request that the commissioner exercise his supervisory authority to require the examiner to do so.

An Information Disclosure Statement was filed on July 26, 2002, including the elements required by 37 C.F.R. §1.97(d) (see attached). There is no indication of record that the examiner has considered this prior art, and so Applicants request that the commissioner exercise his supervisory authority to require the examiner to consider and make of record the prior art cited in the Information Disclosure Statement.

No fee is believed to be required for the present petition. However, if any fee is in fact required, the commissioner is authorized to withdraw any necessary fee from the undersigned attorney's deposit account no. 15-0030.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Norman F. Oblon  
Attorney of Record  
Registration No. 24,618  
Robert T. Pous  
Attorney of Record  
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UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: ASSISTANT COMMISSIONER FOR PATENTS  
Washington, D.C. 20231

V P 28W

U.S. APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/700729	KINUGAWA	H 199202US2XPC
		INTERNATIONAL APPLICATION NO.
PCT/JP00/02060		
I.A. FILING DATE	PRIORITY DATE	
31 MAR 00	31 MAR 99	

DATE MAILED:

27 DEC 2000

**NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371  
AND 37 CFR 1.494 OR 1.495**

1. The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as  a Designated Office (37 CFR 1.494),  an Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is **ACCEPTED** for national patentability examination in the United States Patent and Trademark Office.

2. The United States Application Number assigned to the application is shown above and the relevant dates are:

30 NOV 00	30 NOV 00
35 U.S.C. 102(e) DATE	DATE OF RECEIPT OF 35 U.S.C. 371 REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. **THE DATE APPEARING ON THE FILING RECEIPT AS THE "FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371(C) REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE.** *The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363).* Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

3.  A request for immediate examination under 35 U.S.C. 371(f) was received on 30 NOV 00 and the application will be examined in turn.

4. The following items have been received:

- U.S. Basic National Fee.  
 Copy of the international application in:  
     a non-English language.  
     English.  
 Translation of the international application into English.  
 Oath or Declaration of inventors(s) for DO/EO/US.  
 Copy of Article 19 amendments.  Translation of Article 19 amendments into English.  
    The Article 19 amendments  have  have not been entered.  
 The International Preliminary Examination Report in English and its Annexes, if any.  
 Copy of the Annexes to the International Preliminary Examination Report (IPER).  
     Translation of Annexes to the IPER into English.  
    The Annexes  have  have not been entered.  
 Preliminary amendment(s) filed 30 NOV 00 and \_\_\_\_\_.  
 Information Disclosure Statement(s) filed \_\_\_\_\_ and \_\_\_\_\_.  
 Assignment document.  
 Power of Attorney and/or Change of Address.  
 Substitute specification filed \_\_\_\_\_.  
 Verified Statement Claiming Small Entity Status.  
 Priority Document.  
 Copy of the International Search Report  and copies of the references cited therein.  
 Other:

RECEIVED  
DEC 28 2000

OBLON, SPIVAK, McCLELLAND  
MAIER & NEUSTADT, P.C.

RECEIVED IN FOREIGN FILING  
DATE: 12/28/00  
TIME: \_\_\_\_\_

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

Vonda M. Wallace

Telephone: 703-305-3736

*S*  
CSMM&N File No. 199202US2X PCT

Dept.: E/M

By: NFO:RTPcfd

Serial No. 09/700,729

In the matter of the Application of: HIDEKI KINUGAWA ET AL

For: SHOVEL

The following has been received in the U.S. Patent Office on the date stamped hereon:

- |   |   |                                 |
|---|---|---------------------------------|
| <input type="checkbox"/> pp. Specification &                                | Claims/Drawings   | Sheets                          |
| <input type="checkbox"/> Combined Declaration, Petition & Power of Attorney |   | pages                           |
|   |   |                                 |
| <input type="checkbox"/> List of Inventor Names and Addresses               | RCE   |                                 |
| <input type="checkbox"/> Utility Patent Application                         | <input type="checkbox"/> Priority Doc ( )                 |                                 |
| <input type="checkbox"/> Notice of Priority                                 | <input checked="" type="checkbox"/> Dep. Acct. Order Form |                                 |
| <input checked="" type="checkbox"/> Check for \$180.00                      |   |                                 |
| <input type="checkbox"/> Fee Transmittal Form                               |   |                                 |
| <input type="checkbox"/> Assignment/PTO 1595 pages:                         |   |                                 |
| <input type="checkbox"/> Letter to Official Draftsman                       |   |                                 |
| <input type="checkbox"/> Letter Requesting Approval of Drawing Changes      |   |                                 |
| <input type="checkbox"/> Drawings   | sheets  | <input type="checkbox"/> Formal |
| <input type="checkbox"/> Letter (Cover)                                     |   |                                 |
| <input type="checkbox"/> Amendment w/marked-up copy                         | <input checked="" type="checkbox"/> PTO-1449              |                                 |
| <input checked="" type="checkbox"/> Information Disclosure Statement        |   |                                 |
| <input checked="" type="checkbox"/> Cited References (1)                    |   |                                 |
| <input checked="" type="checkbox"/> European Search Report                  |   |                                 |
| <input type="checkbox"/> Statement of Relevancy                             | <input type="checkbox"/> Cited Pending Applications       |                                 |
| <input type="checkbox"/> IDS/Related/List of Related Cases                  |   |                                 |
| <input type="checkbox"/> Restriction Response                               | <input type="checkbox"/> Election Response                |                                 |
| <input type="checkbox"/> Declaration Under 37 C.F.R. §1.132                 |   |                                 |
| <input type="checkbox"/> Petition for Extension of Time ( )                 |   |                                 |
| <input type="checkbox"/> Notice of Appeal                                   |   |                                 |
| <input type="checkbox"/> Terminal Disclaimer                                |   |                                 |
| ... Request For Reconsideration   |   |                                 |
| <input type="checkbox"/> White Advance Serial Number Card                   |   |                                 |
| <input type="checkbox"/> Appeal Brief                                       |   |                                 |
| <input type="checkbox"/> Petition Under 37 C.F.R. §1.181(a)(3)              |   |                                 |
| <input type="checkbox"/> Draft w/Changes                                    |   |                                 |

Due Date: 7-26-02



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**OCT 01 2002**  
**GROUP 3600**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: HIDEKI KINUGAWA ET AL  
SERIAL NO: 09/700,729  
FILED: NOVEMBER 30, 2000  
FOR: SHOVEL

GAU: 3671  
EXAMINER: PEZZUTO, R.

**INFORMATION DISCLOSURE/RELATED CASE STATEMENT UNDER 37 CFR 1.97**

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

SIR:

Applicant(s) wish to disclose the following information.

**REFERENCES**

- The applicant(s) wish to make of record the references cited in the European Search Report and listed on the attached form PTO-1449. Copies of the listed references are attached, where required, as are either statements of relevancy or any readily available English translations of pertinent portions of any non-English language references.
- A check is attached in the amount required under 37 CFR §1.17(p).

**RELATED CASES**

- Attached is a list of applicant's pending application(s) or issued patent(s) which may be related to the present application. A copy of the patent(s), together with a copy of the claims and drawings of the pending application(s) is attached along with PTO 1449.
- A check is attached in the amount required under 37 CFR §1.17(p).

**CERTIFICATION**

- Each item of information contained in this information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this statement.
- No item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application or, to the knowledge of the undersigned, having made reasonable inquiry, was known to any individual designated in 37 CFR §1.56(c) more than three months prior to the filing of this statement.

**DEPOSIT ACCOUNT**

- Please charge any additional fees for the papers being filed herewith and for which no check is enclosed herewith, or credit any overpayment to deposit account number 15-0030. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

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Norman F. Oblon  
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Robert T. Pous  
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